

INITIAL STATEMENT OF REASONS FOR PROPOSED AMENDMENT TO CHILD ABUSE REPORTS RECORDKEEPING REGULATIONS

INITIAL STATEMENT OF REASONS

The Department of Justice (DOJ) proposes to amend its regulations pertaining to Child Abuse Reports Recordkeeping. The regulations occupy Sections 900 through 911 of Article 1, Chapter 9, Division 1, Title 11 of the California Code of Regulations. The authority for the regulations is Penal Code section 11170(a).

GENERAL INFORMATION

Penal Code section 11170(a) requires DOJ to maintain an index of all reports of child abuse and severe neglect submitted to it pursuant to Penal Code section 11169. In response to this statutory requirement, DOJ has maintained the Child Abuse Central Index (Index) since 1965. Penal Code section 11170(a) also specifies that DOJ may adopt rules governing child abuse recordkeeping and reporting. In 1998, DOJ adopted regulations pertaining to child abuse reports recordkeeping, which constitute Sections 900 through 911 of Article 1, Chapter 9, Division 1, Title 11 of the California Code of Regulations.

Agencies receiving reports of child abuse and severe neglect are required to send a summary of its investigatory findings to DOJ, except for those cases determined to be unfounded. The summary report to DOJ is to be submitted on Form SS 8583. The first page of Form SS 8583 is titled "Guidelines for Use and Completion of Form SS 8583." The subsequent page (in four copies) is titled "Child Abuse Summary Report," and forms the basis for the Index maintained by DOJ. In addition to submitting a summary report to DOJ, agencies must maintain in its files the complete investigative report which details the summary information submitted to DOJ.

The Index is a statewide referral system, pointing to the original complete investigative report which must be obtained by the accessing agency from the reporting agency. An accessing agency must independently evaluate the underlying investigative report before it takes any action based on that report. The law strictly defines who may have access to Index information, and ensures confidentiality by making unauthorized use or disclosure a criminal offense.

Upon receipt of a completed Form SS 8583 from an investigating agency, DOJ staff review the document for mandatory information and then make an entry into the Index. DOJ staff verify that the information entered into the Index accurately reflects the information provided on Form SS 8583. DOJ staff do not conduct a separate investigation to verify the accuracy of the underlying investigative report.

The Index is a critical resource for the protection of children. It is used daily in the investigation of child abuse incidents, as well as in assessing applicants for child care licensure, adoption, placement of children, and employment in child care settings. It is incumbent upon both local investigating agencies and DOJ to ensure that all reports in the Index meet statutory and regulatory requirements.

PROPOSED AMENDMENTS TO THE REGULATIONS

General

DOJ proposes to amend sections 900 through 910 of the regulations pertaining to Child Abuse Reports Recordkeeping. The following general statements apply to all the proposed changes:

DOJ did not rely upon any technical, theoretical, or empirical studies, reports, or similar documents in proposing these amendments to the regulations.

No reasonable alternatives were identified by DOJ, nor were there any alternatives identified and brought to the attention of DOJ. Therefore, no alternatives that would lessen the impact on small businesses were considered.

Proposed amendment 1:

Section 900 is amended to include the wording “and severe neglect.” It is also amended to describe more accurately what the ACAS audit trail is by amending “require that DOJ provide an” to “identify how DOJ tracks inquiries and responses thus creating an.”

Specific purpose and rationale:

The specific purpose of this proposed amendment is to exclude reporting of general neglect and specify what an audit trail contains. These are nonsubstantive changes intended to provide the reader with more specific information. There is no policy or procedural change based on this amendment.

Proposed amendment 2:

Section 901(a) is amended to include the language “when appropriate and/or available.”

Specific purpose and rationale:

The specific purpose of this proposed amendment is to clarify that there may be acceptable exceptions to the “Active Investigation” definition/requirement. There is no policy or procedural change based on this amendment.

Proposed amendment 3:

Section 901(b) is amended to “used by DOJ to track” from “is the method of tracking.”

Specific purpose and rationale:

The changes to this section are nonsubstantive. The proposed amendment makes grammatical changes to the definition. There is no policy or procedural change based on this amendment.

Proposed amendment 4:

Section 901(c) is amended to include all definitions of the ACAS (i.e. Index and Child Abuse Central Index).

Specific purpose and rationale:

The proposed amendment is meant to simplify the definitions contained in the regulations. The proposed amendment does not change any definition. There is no policy or procedural change based on this amendment.

Proposed amendment 5:

Section 901(f) is amended to include the word “underlying” and change “file” to “report.”

Specific purpose and rationale:

The proposed amendment is nonsubstantive and only meant to specify what information DOJ is confirming. There is no policy or procedural change based on this amendment.

Proposed amendment 6:

Section 901(i) is amended to capitalize the word “Report” and delete “and became.”

Specific purpose and rationale:

The proposed amendments are grammatical changes only, and have no effect. There is no policy or procedural change based on this amendment.

Proposed amendment 7:

Section 901(j) is deleted and included in Section 901(c).

Specific purpose and rationale:

The proposed amendment identifies all references to the Index under one section, and is meant to assist the reader in identifying all references to the same data base. There is no policy or procedural change based on this amendment.

Proposed amendment 8:

Section 901(k) is amended to 901(j). The word “file” is amended to “report.”

Specific purpose or rationale:

The purpose of this change is consistency in regulations. There is no policy or procedural change based on this amendment.

Proposed amendment 9:

Section 901(l) is amended to 901(k).

Specific purpose or rationale:

The purpose of this amendment is to renumber subsection (l) because of the inclusion of subsection (j) in subsection (c). There is no policy or procedural change based on this amendment.

Proposed amendment 10:

Section 901(m) is renumbered to (l). The term “or severe neglect” was added.

Specific purpose or rationale:

The purpose of this amendment is to specify all types of abuse that should be reported to CPP. Renumbering the subsection is necessary for consistency.

Proposed amendment 11:

Section 901(n) is renumbered to (m).

Specific purpose or rationale:

Renumbering the subsection is necessary for consistency.

Proposed amendment 12:

Section 901(o) is renumbered to 901(n). The word “summary” is added.

Specific purpose of rationale:

Renumbering the subsection is necessary for consistency. The word “summary” was added to clarify that the reports sent to DOJ do not include the whole investigative report, but are a summary of an investigative report.

Proposed amendment 13:

Section 901(p) is renumbered to 901(o)

Specific purpose or rationale:

This subsection is renumbered for consistency purposes.

Proposed amendment 14:

Section 901(q) is renumbered to 901(p)

Specific purpose or rationale:

This subsection is renumbered for consistency purposes.

Proposed amendment 15:

Section 901(r) is deleted.

Specific purpose or rationale:

This subsection is deleted because the Trustline Registry is no longer the responsibility of DOJ. Effective July 1, 1998, the responsibility for the Trustline Registry became that of DSS.

Proposed amendment 16:

Section 901(s) is renumbered to 901(q). The sentence “Unfounded reports are not forwarded to DOJ for inclusion in the ACAS.” was added.

Specific purpose or rationale:

This subsection is renumbered for consistency purposes. The addition of the sentence is for clarification, and does not impact any policy or procedure.

Proposed amendment 17:

Section 901(t) is renumbered to 901(r). The wording “and became” is deleted.

Specific purpose or rationale:

The subsection is renumbered for consistency purposes. The deletion of “and became” is a grammatical change and does not effect any policy or procedure.

Proposed amendment 18:

Section 901(u) is renumbered to 901(s)

Specific purpose or rationale:

This subsection is renumbered for consistency purposes.

Proposed amendment 19:

Section 901(v) is renumbered to 901(t). The term “investigation” is amended to “investigative.”

Specific purpose or rationale:

This subsection is renumbered for consistency purposes. The amendment “investigative” is a grammatical change only.

Proposed amendment 20:

Section 902 is amended to include the term “severe neglect” and amend the word “files” to “report.”

Specific purpose or rationale:

This section is amended for consistency purposes. Throughout Sections 900-911, where appropriate, the term “and severe neglect” has been added after “child abuse” to clarify the type of neglect that is reportable to DOJ. This amendment does not change any policy or procedure.

Proposed amendment 21:

Section 903(a) is amended to 903(b) and the words “and severe neglect” are added after the words “child abuse.”

Specific purpose or rationale:

The term “and severe neglect” has been added after “child abuse” to clarify the type of neglect that is reportable to DOJ. This amendment does not change any policy or procedure. Renumbering to subsection (b) from (a) is done to create a better flow of information.

Proposed amendment 22:

Section 903(b) is amended to 903(a), and amended to include the term “and severe neglect.” Section 903(b) is also amended to modify the name of the reporting form from “Child Abuse Investigation Report” to “Child Abuse Summary Report.” Lower case “form” is amended to uppercase “Form.”

Specific purpose or rationale:

Throughout Sections 900-911, where appropriate, the term “and severe neglect” has been added after “child abuse” to clarify the type of neglect that is reportable to DOJ. The form name is amended to more accurately reflect the information submitted to DOJ, and to alleviate any confusion to investigators. These amendments do not change any policy or procedure.

Proposed amendment 23:

Sections 903(b)(1) and (2) are amended to 903(a)(1) and (2), and lower case “form” is amended to upper case “Form.”

Specific purpose or rationale:

The changes proposed are grammatical changes only.

Proposed amendment 24:

Sections 903(b)(2)(1) through 903(b)(2)(8) are renumbered to 903(a)(2)(A) through 903(a)(2)(H).

Specific purpose or rationale:

The proposed amends are formatting changes only.

Proposed amendment 25:

Section 903(b)(2)(6) is amended to include “birth date or approximate age, and gender.”

Specific purpose or rationale:

The proposed amendment is to correct a previous omission. The data elements added to this section have always been mandatory, and do not place additional requirements on investigators.

Proposed amendment 26:

Form SS 8583 is amended to reflect the change in definition of substantiated report from some “credible evidence of abuse” to “more likely than not” that abuse occurred. The title of the form has been amended to “Child Abuse Summary Report.”

Specific purpose and rationale:

The specific purpose of this proposed amendment is to implement that portion of Senate Bill 1313, Chapter 842, Statutes of 2005, that changes the definition of substantiated report. The title of the form has been amended to more accurately reflect what is submitted to DOJ for inclusion in the ACAS.

Proposed amendment 27:

Form SS 8583 instruction sheet is amended to reflect a change in definition of substantiated report from some “credible evidence of abuse” to “more likely than not” that abuse occurred. The title of the form has been amended to “Child Abuse Summary Report.” “Past abuse of a child who is an adult at the time of disclosure” has been deleted.

Specific purpose and rationale:

The specific purpose of this proposed amendment is to implement that portion of Senate Bill 1313, Chapter 842, Statutes of 2005, that changes the definition of substantiated report. The title of the form has been amended to more accurately reflect what is submitted to DOJ for inclusion in the ACAS. Under the heading of what not to report, past abuse was deleted due to reinterpretation of law.

Proposed amendment 28:

The title for Section 904 is amended from “DOJ Review and Verification of Reports Submitted by CPAs” to “DOJ Review and Verification of Submitted Summary Reports.”

Specific purpose and rationale:

The proposed amendment is consistent with the change in the name of the report submitted to DOJ. This amendment does not change any policy or procedure.

Proposed amendment 29:

The word “summary” is inserted between “abuse” and “report” to correctly reflect the new name of the SS 8583.

Specific purpose and rationale:

The proposed amendment is consistent with the change in the name of the report submitted to DOJ, and more clearly identifies the information collected by DOJ. This amendment does not change any policy or procedure.

Proposed amendment 30:

Section 905(d) is amended by deleting the last sentence from 905(d) and creating 905(e) containing the last sentence from 905(d).

Specific purpose or rationale:

The proposed amendment is a formatting change only.

Proposed amendment 31:

Section 906 is amended to add “and severe neglect” after “child abuse.”

Specific purpose or rationale:

The proposed amendment is created for consistency in regulations and specify what type of neglect is reportable to DOJ.

Proposed amendment 32:

Section 907(b) is amended to include pre-employment background investigations for peace officers. The word “purposes” is deleted.

Specific purpose and rationale:

The specific purpose of this proposed amendment is to implement that portion of Senate Bill 1313, Chapter 842, Statutes of 2005, that allows access to the Index, or the Automated Child Abuse System (ACAS), for peace officer pre-employment background investigation purposes. The deletion of the word “purposes” is a grammatical change only.

Proposed amendment 33:

Section 908(a) is deleted and renumbered 908(b).

Specific purpose or rationale:

The specific purpose of this amendment is to create a better flow of the information contained in section 908. Previously, the form letter interrupted the reader as it was placed after (a) and before (b). This amendment is for formatting purposes only.

Proposed amendment 34:

Section 908(b) is renumbered to 908(a) and several subsections thereof are created.

Specific purpose or rationale:

The specific purpose of this change is to create a better flow of information contained in Section 908. No procedural or policy changes are contained therein.

Proposed amendment 35:

Section 908 is amended to include the peace officer pre-employment category to procedures for confirmation of ACAS information. Section 908 is also amended to reflect consistency in the confirmation process for non-criminal investigations and citizen inquiries.

Specific purpose and rationale:

The specific purpose of this proposed amendment is to implement that portion of Senate Bill 1313, Chapter 842, Statutes of 2005, that allows access to the Automated Child Abuse System for peace officer pre-employment background investigation purposes. This amendment is implemented for consistency of procedures and regulations.

Proposed amendment 36:

The confirmation letter is amended to include language for pre-employment background investigations for peace officers. The associated questionnaire is also changed to include additional questions to establish compliance with current retention standards and to ensure notification to the suspect.

Specific purpose and rationale:

The specific purpose of this proposed amendment is to implement those portions of Senate Bill 1313, Chapter 842, Statutes of 2005, that allow access to the Automated Child Abuse System for peace officer pre-employment background investigation purposes and that change the definition of substantiated report. The proposed amendment is also intended to ensure notification to the suspect.

Proposed amendment 37:

Section 909 is amended to include the peace officer pre-employment category to the existing categories for notification in response to inquiries from licensing, employment, and certification agencies. This section is also amended to include the language “with the exception of temporary placement of children in emergency situations.”

Specific purpose and rationale:

The specific purpose of this proposed amendment is to implement that portion of Senate Bill 1313, Chapter 842, Statutes of 2005, that allows access to the Automated Child Abuse System for peace officer pre-employment background investigation purposes. This amendment is implemented for consistency and clarity of procedures and regulations.

Proposed amendment 38:

Section 910 is amended to reflect an audit record as opposed to a log.

Specific purpose and rationale:

The specific purpose of this proposed amendment is to clarify that the Automated Child Abuse System audit trail is not a log. The audit trail is created by compiling documents of inquiries and disseminations for each record contained in the Automated Child Abuse System. There is no policy or procedural change based on this amendment.